

**PLANNING COMMISSION MINUTES OF JULY 24, 2006**

**2006-0599** – Application for a Special Development Permit on a 4,643 square foot site to allow a 343 square foot second story addition to an existing two-story home for a total of 2,168 square feet resulting in a 47% Floor Area Ratio where 45% Floor Area Ratio is permitted without Planning Commission review. The property is located at **516 Fern Ridge Court** (near Sunnyvale-Saratoga Road) in an R-2/PD (Low-Medium Density Residential/Planned Development) Zoning District. (APN: 323-31-012) RK

**Ryan Kuchenig**, Associate Planner, presented the staff report. He clarified that the floor plan for the proposed second story does not indicate a side yard window and that there would be a high window with a sill height of approximately six feet located in the second-story bathroom facing the neighboring two-story home. He said staff has received letters from concerned neighbors that are included in Attachment D. He said some of the neighbor's concerns include a loss of privacy, and the loss of the architectural form of the Bahl Patio Home design. He said one of the primary elements of the Bahl Patio Home design is to preserve privacy and the outdoor patio area. He said no windows are proposed for the side yard facing the adjacent Bahl Patio Home. Mr. Kuchenig said staff is concerned about setting precedent for two-story additions to this style home. He said each proposal for a second-story addition is reviewed on a case-by-case basis considering the site, architectural compatibility, and preservation of privacy to neighboring properties. He said that staff finds that this proposed design adequately accommodates these concerns. He commented that the adjacent property to the south has two housing units and the home on the left of the proposed property is not a Bahl Patio Home. He said staff is recommending approval of the project subject to the Conditions of Approval (COAs).

**Comm. Simons** commented that the Planning Commission is considering this project as it exceeds the 45% Floor Area Ratio (FAR). He asked staff if a modification to a property in a Planned Development (PD) area could be reviewed at an Administrative Hearing level rather than a Planning Commission level. Mr. Kuchenig said yes, that a modification to a property in a PD area needs to be heard in a public hearing, and if the proposed project did not exceed the 45% FAR it could have been reviewed at an Administrative Hearing. Comm. Simons and staff further discussed the public hearing requirements for projects in PD areas with Ms. Ryan adding that the COAs can be more restrictive or less restrictive regarding what types of modifications need what type of public hearing review.

**Chair Klein** opened the public hearing.

**Steven Lesley**, architect for the project, represented the applicant. He said he agrees with the staff report and is available to answer questions regarding the project.

**Comm. Rowe** asked Mr. Lesley the size of the two proposed bedrooms. Mr. Lesley said he believes that one bedroom is 10 by 10 feet and the second is 10 by 12 feet.

**Tom McParland**, a resident of Sunnyvale and a Bahl Patio Homeowner, presented a PowerPoint presentation. He spoke in opposition of the project. He said he opposes the second-story addition on the grounds of invasion of privacy, a probable drop in the property value of the neighboring homes, the setting of a precedent for future second-story additions in the Bahl Patio Home community, and the blockage of natural light. He said he would like to preserve the original design of the Bahl Patio Homes community. He said the south facing windows on the proposed project would allow the neighbor visibility of his back patio and showed a picture of what their view would be if the project were allowed. He said this invasion of privacy would make his Bahl Patio Home different from the others and cause a drop in relative value as a prospective buyer would prefer the original complete privacy that the Bahl Patio Homes offer. He said approval of this would set a precedent for future second-story additions in the Bahl Patio Home community even with staff's review of each case. He said the proposed roof would block the natural light to their living room and their view would change from open sky to the view of the neighbor's roof. He said he wishes to protect the careful design of these single-story homes, with privacy, light and the original unique style to preserve the enduring value and harmony of the Bahl Patio Home neighborhood.

**Kerri Waldow**, a resident of Sunnyvale and a Bahl Patio Homeowner, spoke on behalf of a large group of neighbors that attended the meeting that are in opposition of the project. She explained there are approximately 64 homes that are part of the PD area. She said there are no second-story additions in this area and though several applications have been submitted that none have been allowed. She explained the uniqueness of the houses describing the different styles in the community. Ms. Waldow commented that she finds it misleading to call the existing home a two-story home when it is more of a loft with a staircase, with the same pitch of roof as the original structure. She said the Bahl Patio Homes are award-winning homes built in the late sixties and early seventies that were designed for better, private, indoor and outdoor living. She suggested that the City should be interested in preserving their value and uniqueness. She said in regards to the one-story overlay districts that their neighborhood may not qualify, as the homes cannot be over 17 feet in height and one third of the Bahl Patio homes are 20 feet in height due the design of the roof pitch. She encouraged the City to give thorough attention and interest in considering this situation.

**Lloyd Webb**, a resident of Sunnyvale and Bahl Patio Homeowner, spoke in opposition of the project. He said he recalls going through the same process in the 1980's when one of his neighbors wanted to add a second-story and that the City Council eventually denied the application after taking several of the Councilmembers through the homes. He said that the space between the houses is very tight and to add the second-story would be like adding a climbing wall on the property. He said he knows property rights are not absolute, as we would not need Planning Commissions to make decisions if property rights were absolute.

**Mr. Lesley** stated that the Bahl Patio Home that the applicant lives in is unique as it is next door to four, two-story homes in a row. He said the addition is facing towards the adjacent two-story home. He said that they have tried to be sensitive to the neighbor's view and windows and have no windows facing any of the sides including the Bahl Patio Home side. He said the structure is already two-story with a window that faces the south and the addition is to the other side from the Bahl Patio Home and forward. Mr. Lesley addressed the shadow issue and said that the project was carefully designed using a sun study to make sure the neighbor would not lose light and that there would be no more shadow than what already exists. He disagreed about there not being any other two-story homes in the neighborhood and said he was careful to keep the design compatible with the original design. He said he appreciates the neighbors' concerns, that the applicant has tried to be sensitive to the issues, but hopes the Planning Commission will be sensitive to the homeowner's rights to allow the addition.

**Comm. Rowe** asked Mr. Lesley what the reason is for having the new roof a foot higher than the original. Mr. Lesley said the proposed roof is approximately one foot higher to help keep the original character of the home consistent with the Bahl Patio Home style. Comm. Rowe asked if the only window being added is the one on the backside of the house. Mr. Lesley said there are several windows proposed, one in the front of the house, one in the back, and a dormer window on the side. Ms. Rowe discussed possible changes to the proposed windows with the applicant including the possible use of frosted windows and raising the sill of the window under the dormer window. Ms. Ryan said there are minimum heights for ingress and egress and this window probably cannot be raised any higher.

**Chair Klein** closed the public hearing.

**Comm. Simons** moved for Alternative 3, to deny the Special Development Permit. **Comm. Hungerford** seconded the motion.

**Comm. Simons** said he believes approval of the application would be setting precedent in this development. He said that he appreciates that the applicant feels this lot is unique, but it would be difficult to allow this addition and not allow

a similar request in the development later. He said he does not feel this addition would be a benefit to the City and that denial of the application will help keep the character of the community.

**Comm. Hungerford** said he cannot make finding number 2 in Attachment A regarding the proposed use being consistent with the adjacent properties. He said the existing owners make a good case about this being a unique design, but if the design of the home is altered then it begins to affect the character of the community and opens a "Pandora's box."

**Comm. Babcock directed staff to work with the neighborhood and explore ideas to keep the homes single-story in this development.** She said she realizes the development does not qualify for a single-story PD overlay, but is hoping there is an alternative that could provide similar results.

**Ms. Ryan** said that staff would be happy to explore ideas with the neighborhood. Ms. Ryan referred to the findings, Attachment A, and said that to deny a Special Development Permit (SDP) the Commission has to be unable to make both of the findings, and to approve the Permit the Commission only needs to be able to make one of the findings. She said the Commission has indicated that they are having difficulty making the second finding. She asked that the Commission address the first finding and any inconsistencies there may be with the purposes of the General Plan.

**The Commissioners and staff** discussed possible reasons for not being able to make finding one and determined that there is concern about the General Plan policy concerning compatibility with the neighborhood. The maker and the seconder agreed that this is adequate reason to be unable to make finding one.

**Comm. Rowe** commented that the Planning Commission cannot go against the City code and does not have the flexibility that City Council has in some decisions. She addressed her position on the findings as she felt the first finding could be met. Comm. Rowe and staff further discussed that to approve the SDP that the Commission would need to make one of the two findings, but to deny the SDP that the Commission would have to be unable to make both of the findings. Ms. Ryan said based on Comm. Simons and Comm. Hungerford's discussion that the maker and the seconder of the motion said they could not make the first finding because the design was not preserving the high-quality character of this particular neighborhood.

**Comm. Simons said he would like to suggest that a Study Issue be added to provide a small modification to the existing single-story overlay that might apply to this particular development.**

**Comm. Ghaffary** confirmed with staff that if one of the findings can be made that the project could be approved. He said he visited the site and the property to

one side is a two-story home similar to the proposed design. He said he finds the design compatible with one adjacent neighbor, but finds it incompatible with the other adjacent neighbor. He said the property behind the project is a larger lot and is not a Bahl Patio Home. He said he does not find the impact of this project as large as depicted.

**ACTION: Comm. Simons made a motion on 2006-0599 to deny the Special Development Permit. Comm. Hungerford seconded. Motion carried, 6-1, Comm. Ghaffary dissenting.**

**APPEAL OPTIONS: This item is final unless appealed to the City Council no later than August 8, 2006.**